

Lease documenting Aircraft Landing Lighting - MOD and Landowner

Key Features:

This document is intended for use where MOD is securing the right to retain landing lights on property owned by a third party, typically beyond the extent of its own airfield.

This document is a lease not an easement. Some previous documentation (e.g. DE Form 5612) used by MOD was a leasehold easement (i.e. a grant of rights on a temporary basis). This is a genuine lease and includes a demise (the location on which the lights are fixed). The reason for this change is an attempt to ensure that the MOD enjoys protection under the Landlord and Tenant Act 1954 Part II and can't readily be held to ransom on renewal. However, most well-advised landlords will not be willing to grant a lease without protection so the lack of rights to renew is something to bear in mind on any negotiations regarding term length. This form of lease may still be used but the relevant contracting out clauses will need to be inserted. Please speak to the DIO Legal Team.

This document is to be signed as a deed as it envisages a term length of over three years. A lease under three years could be signed under hand or signed as a deed – the same form of lease may be used for a term of less than three years.

This document envisages that a plan will be annexed showing both the demised locations (lights and poles) and a cable run for ancillary cabling and other supporting equipment. Relevant definitions are included.

Please note that it will be necessary to submit a Stamp Duty Land Tax return within 30 days of completing this document (although no tax is payable).

It is **not** suitable for:-

- RFCA owned or operated sites;
- Sites where the Landlord is only prepared to grant an easement;
- Renewals of aircraft landing lights leases where the Landlord insists on contracting on identical terms to the previous arrangements;
- Leases where the landlord requires a rent review clause.

DATED [INSERT DATE]

LEASE

relating to

[INSERT PREMISES DETAILS]

Between

(1) [INSERT LANDOWNER NAME]

and

THE SECRETARY OF STATE FOR DEFENCE



**Defence
Infrastructure
Organisation**

PARTICULARS OF LEASE	
Date	[INSERT DATE]
Landlord	[INSERT NAME] of [Insert Registered Address]
Tenant	THE SECRETARY OF STATE FOR DEFENCE care of Defence Infrastructure Organisation, [Insert Office Address]
Annual Rent	£
Rent Payment Dates	[25 March, 24 June, 29 September, 25 December] in each year
Contractual Term	a term of [Insert Number of Years] years beginning on, and including the date of this lease and ending on, and including [Insert End Date]
Property	[Location of Equipment] shown marked with [green circles/red dots] the attached plan within the Land
Land	Means the Landlord's land at [which is registered with the Land Registry under title number [Insert number]]
Cable Routes	Means the cable and equipment routings over the Land to and from the property shown [as a broken red line] on the plan
Tenant's Break Date	[Insert Break Date Details]

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation set out in this clause apply to this lease:

Ancillary Equipment: means any and all cables poles or other equipment or facilities as are ancillary to the Apparatus;

Annual Rent: means the rent set out in the Particulars;

Apparatus: means aircraft landing lights and ancillary poles and fixings;

Break Date: means the Tenant's Break Date as set out in the Particulars;

Cable Routes: means the cable and equipment routes set out in the Particulars;

Crown Body: means the Crown or any part of it or any person or entity authorised to discharge functions for or on behalf of the Crown or the Tenant;

Contractual Term: means the term set out in the Particulars subject to early determination under the provisions of this lease;

Land: means the Landlord's land as defined in the Particulars;

Particulars: the particulars set out at the front of this lease;

Permitted Use: means an equipment space for the use of and installation of Apparatus;

Property means the property as defined in the Particulars;

Rent Payment Dates: means the rent payment dates set out in the Particulars;

Third Party Rights: means all rights, covenants and restrictions affecting the Land at the date hereof;

VAT: means value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

- 1.2 A reference to this **lease**, except a reference to the date of this lease or to the grant of this lease, is a reference to this lease and any deed, licence, consent, approval or other instrument supplemental to it.
- 1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease. A reference to the **Tenant** includes a reference to its successors in title and assigns.
- 1.4 A reference to the **term** is to the Contractual Term.
- 1.5 A reference to the **end of the Contractual Term** is to the end of the term however it ends.
- 1.6 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.7 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-

enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.

- 1.8 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.9 Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use reasonable endeavours to prevent that thing being done by another person.
- 1.10 Unless the context otherwise requires, where the words **include(s)** or **including** are used in this lease, they are deemed to have the words "without limitation" following them.
- 1.11 A **person** includes a corporate or unincorporated body.
- 1.12 References to **writing** or **written** do not include email.
- 1.13 Except where a contrary intention appears, a reference to a clause, is a reference to a clause of, this lease.
- 1.14 Clause headings do not affect the interpretation of this lease.

2. GRANT

- 2.1 The Landlord lets with full title guarantee the Property to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 0 subject to the Third Party Rights.

3. ANCILLARY RIGHTS

- 3.1 The Landlord grants the Tenant the following rights (the **Rights**):
 - (a) the right of support from the Land to the extent that the Land provides support to the Property to the date of this lease;
 - (b) the right to construct lay maintain upgrade test inspect replace and use for the purpose of an airfield approach lighting system Ancillary Equipment over under and through the Land along the Cable Routes;
 - (c) the right to remove renew alter maintain upgrade and replace all or any of the same;
 - (d) the right at all times of the day or night to enter upon the Land with or without workmen contractors tools plant and materials to carry out works and to excavate for the purpose of exercising any of the rights above.
- 3.2 The Rights are granted subject to the Third Party Rights insofar as the Third Party Rights affect the Land and the Tenant shall not do anything that may interfere with any Third Party Right.
- 3.3 The Tenant shall exercise the Rights only in connection with its use of the Property for the Permitted Use.

- 3.4 The Tenant will give to the occupier for the time being of the Land (except in case of emergency or breakdown of the Apparatus or Ancillary Equipment) at least 24 hours previous notice of his intention to enter upon the Land pursuant to the rights hereby granted and in the event of an emergency or breakdown to give to such occupier such previous notice (if any) as is practicable in the circumstances before entry and if no such notice can be given to notify the occupier for the time being of the Land of such entry as soon as practicable thereafter.
- 3.5 The Tenant shall in exercising the rights do as little damage as possible to the Land and after carrying out any work thereon to restore the surface of the Land where dug excavated or disturbed as nearly as may be to its former condition to the reasonable satisfaction of the Landlord and to remove all rubbish and waste materials brought thereon by the Tenant and to pay to the occupier for the time being of the Land reasonable compensation for any damage to the crops (if any) thereon caused by the exercise of the Rights.
- 3.6 The Tenant shall place any underground cables or other Ancillary Equipment at a depth below the surface of the Land of not less than 18 inches or such greater depth as may be necessitated by cultivation or land drainage.

4. THIRD PARTY RIGHTS

- 4.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.
- 4.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

5. THE ANNUAL RENT

- 5.1 The Tenant shall pay the Annual Rent and any VAT in respect of it in advance on or before the Rent Payment Dates. The payments shall be made by such method that the Landlord requires at any time by giving notice to the Tenant.
- 5.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on the date of this lease.

6. INSURANCE

The Tenant shall not be obliged to insure the Property the Apparatus or the Ancillary Equipment.

7. UTILITIES

The Tenant shall pay all costs in connection with the supply of electricity to the Apparatus and the Ancillary Equipment.

8. DEALINGS

- 8.1 The Tenant may part with share possession or share occupation of the Property or underlet or assign the lease with or to any Crown Body.
- 8.2 Except as expressly permitted by above, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or any part of it or them or hold the lease on trust for any person (except pending registration of

a dealing permitted by this lease at HM Land Registry or by reason only of joint legal ownership).

9. RETURNING THE PROPERTY TO THE LANDLORD

At the end of the Contractual Term the Tenant shall remove the Apparatus from the Property and the Ancillary Equipment from the Land PROVIDED THAT in lieu of such removal the Tenant shall be entitled if he thinks fit to pay to the Landlord a sum of money by way of compensation such sum to be agreed between the Landlord and the Tenant or failing agreement to be determined by a single arbitrator who failing agreement between the parties shall be appointed by the President for the time being of the Royal Institution of Chartered Surveyors in accordance with and subject to the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.

10. USE

The Tenant shall not use the Property for any purpose other than the Permitted Use.

11. LANDLORD'S COVENANTS

- 11.1 The Landlord covenants with the Tenant that so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any lawful interruption by the Landlord or any person claiming under the Landlord or by title paramount.
- 11.2 The Landlord will not do anything that may interrupt any electricity supply to the Apparatus or Ancillary Equipment.
- 11.3 The Landlord will grant access to the Land to enable the Tenant to comply with its obligations under clause 9 including during the period of 3 months following the expiry of the Contractual Term if required.
- 11.4 The Landlord hereby agrees with the Tenant that it will not interfere with or damage the Apparatus or the Ancillary Equipment nor do or permit to be done on or under the Land anything which might obstruct or interfere with the exercise of the Rights or any of them by the Tenant.

12. CONDITION FOR RE-ENTRY

The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any rent is unpaid 2 months after becoming payable provided that it has been formally demanded.

13. NOTICES, CONSENTS AND APPROVALS

- 13.1 Except where this lease specifically states that a notice need not be in writing, or where notice is given in an emergency, any notice given pursuant to this lease shall be in writing.
- 13.2 A written notice shall be delivered by hand or sent by pre-paid first class post or recorded delivery post to:
 - (a) (if the recipient is a company) the party's registered office address;

- (b) (if the recipient is the Secretary of State for Defence) the Defence Infrastructure Organisation at the address set out in the Particulars or such other address in England or Wales as shall have been notified to the party giving the notice; or
 - (c) (in any other case) the party's address set out in the Particulars or such other address in England or Wales as shall have been notified to the party giving the notice.
- 13.3 A correctly addressed notice sent by pre-paid first class post shall be deemed to have been delivered at the time at which it would have been delivered in the normal course of the post.
- 13.4 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

14. DETERMINATION

The Tenant may terminate this lease at any Break Date on not less than three months' prior notice in writing to the Landlord.

15. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this lease shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

16. LANDLORD AND TENANT (COVENANTS) ACT 1995

This lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

IN WITNESS whereof the Corporate Seal of the Secretary of State for Defence has been hereunto affixed and this lease has been executed by the Landlord as a deed the day and year first before written.

THE CORPORATE SEAL of)
THE SECRETARY OF STATE FOR DEFENCE)
hereunto affixed is authenticated by)

.....
Authorised by The Secretary of State for Defence

[Executed as a deed by **[COMPANY NAME]** acting by
[NAME OF FIRST DIRECTOR/MEMBER] and [NAME OF
SECOND DIRECTOR/MEMBER SECRETARY]

.....
[Director/Member]

.....
[Director/Member/Secretary]

or

[SIGNED as a DEED by the said **[NAME]** (OWNER)

In the presence of:

.....
Witness

Witness details:

SIGNED as a DEED by the said **[NAME]** (TENANT)

In the presence of:

.....
Witness

Witness details: